

REMARKS

Applicants gratefully thank the examiner for talking the time on March 31, 2004, to discuss the pending office action. Reconsideration of the rejections set forth in the Office Action mailed December 11, 2003, is respectfully requested. Claims 28 and 43 have been amended. Claims 28-32, 39, 42-45, and 47 remain pending in this case. These amendments were made for clarification purposes. Therefore, these amendments are made without introducing new matter.

Elections/Restrictions

As discussed in the telephone conversation with the examiner on 12/19/03, applicants hereby elect the species in Figures 1-3 with traverse, which corresponds to claims 28-32, 39, 42-45, and 47.

Double Patenting

Claims 28-32, 39, 42-45, and 47 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-5, 12, 16, 20, 22, 25, and 27 of U.S. Patent No, 6,102,931. Without conceding the propriety of the rejections, applicants file a terminal disclaimer herewith.

Art Rejections

Claims 28-30, 32, 39, 42-45, and 47 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Yock (USP 5,501,227). Claim 31 was rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yock. As discussed with the examiner over the telephone, as amended, independent claims 28 and 43 require that the cannula has "*a second lumen communicating with the balloon and wherein the second lumen extends to an exhaust port at the*

distal end of the elongate tubular member." In contrast, Yock describes a balloon cannula with a vent tube that extends toward an exhaust port at the proximal end of the cannula. See Figs. 8A and 9 and Col. 6, lines 57-67. Therefore, applicants respectfully request withdrawal of the rejection and reconsideration of the claims as amended.

CONCLUSION

For all the foregoing reasons, Applicants assert the claims are in condition for allowance. Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicants' undersigned representative at (949) 737-2900. The Commissioner is hereby authorized to charge any fees that may be required in connection with the filing of these documents to Deposit Account No. 50-2862.

Respectfully submitted,

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